

Amendment and Response under 37 C.F.R. 1.116

Applicant: Gerome A. Haney

Serial No.: 10/629,005

Filed: July 29, 2003

Docket No.: 10990836-3

Title: RACK MOUNT ASSEMBLY

REMARKS

The following Remarks are made in response to the Final Office Action mailed July 13, 2004, in which claims 10-22, 24-36, 38, and 41 were rejected. Claims 10-22, 24-36, 38, and 41 remain pending in the application and are presented for reconsideration and allowance.

Claim Rejections under 35 U.S.C. § 102

Claims 10-15, 17-21, 24-29, 31-35, 38, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Kofstad U.S. Patent No. 5,833,337. Applicant respectively traverses this rejection.

Independent claims 10 and 24 each recite that "the first and second mounting flanges contact the opposing column flanges when the rack mount is in a first position between the opposing column flanges," that "the first and second alignment protrusions contact and slide relative to the opposing column flanges when the rack mount is in a second position between the opposing column flanges," and that "the first and second alignment protrusions engage the flange apertures when the rack mount is in a third position between the opposing column flanges," wherein "the second position of the rack mount is between the first position of the rack mount and the third position of the rack mount."

Independent claim 38 recites that positioning the rack mount assembly to span the opposing column flanges of the rack system includes "adjusting a length of the rack mount assembly between the mounting flanges and contacting the opposing column flanges with the mounting flanges of the rack mount assembly," and that after positioning the rack mount assembly to span the opposing column flanges, sliding the rack mount assembly relative to the opposing column flanges includes "contacting the opposing column flanges with alignment protrusions formed on the mounting flanges of the rack mount assembly and sliding the alignment protrusions along a surface of the opposing column flanges."

The Examiner contends that the Kofstad patent discloses a mount adapter or rack mount and that elements 28, 70, and 76 of the Kofstad patent constitute column flanges, mounting flanges, and protrusions, respectively, wherein the mounting flanges contact the column flanges when the rack mount is in a first position, the protrusions contact and slide along the column flanges when the rack mount is in a second position, and the protrusions

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engage the flange apertures when the rack mount is in a third position, wherein the second position is between the first position and the third position.

The Kofstad patent discloses a rack slide 50 having a flange 70 with a locating nib 76 and a flange 58 having a locating nib 64, wherein locating nib 76 engages a mounting hole 106 in an upright 40c and locating nib 64 engages a mounting hole in an upright 40d (Figs. 5-8). Flanges 70 and 58 of the Kofstad patent, however, contact uprights 40c and 40d, respectively, only after locating nib 76 engages mounting hole 106 of upright 40c and after locating nib 64 engages the mounting hole of upright 40d. As such, flanges 70 and 58 of the Kofstad patent do not contact uprights 40c and 40d, respectively, when rack slide 50 is in a first position between uprights 40c and 40d, and locating nibs 76 and 64 of the Kofstad patent do not contact and slide relative to uprights 40c and 40d, respectively, when rack slide 50 is in a second position between uprights 40c and 40d. More specifically, locating nibs 76 and 64 of the Kofstad patent do not contact and slide relative to uprights 40c and 40d after flanges 70 and 58 contact uprights 40c and 40d. Thus, flanges 70 and 58 of the Kofstad patent do not constitute first and second mounting flanges as claimed in independent claims 10, 24, and 38, and locating nibs 76 and 64 of the Kofstad patent do not constitute first and second alignment protrusions as claimed in independent claims 10, 24, and 38. Accordingly, the Kofstad patent does not teach or suggest a rack mount assembly as claimed in claim 10, a rack system as claimed in claim 24, nor a method of mounting a rack mount assembly in a rack system as claimed in claim 38.

In view of the above, Applicant submits that independent claims 10, 24, and 38 are each patentably distinct from the Kofstad patent and, therefore, are in a condition for allowance. Furthermore, as dependent claims 11-22 further define patentably distinct claim 10, dependent claims 25-36 further define patentably distinct claim 24, and dependent claim 41 further defines patentably distinct claim 38, Applicant submits that dependent claims 11-22, 25-36, and 41 are also in a condition for allowance. Applicant, therefore, respectfully requests that the rejections of claims 10-15, 17-21, 24-29, 31-35, 38, and 41 under 35 U.S.C. 102(b) be reconsidered and withdrawn and that claims 10-15, 17-21, 24-29, 31-35, 38, and 41 be allowed.

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Claim Rejections under 35 U.S.C. § 103

Claims 22 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kofstad U.S. Patent No. 5,833,337 in view of Harrington et al. U.S. Patent No. 2,927,652. Applicant respectfully traverses this rejection.

As outlined above, Applicant submits that independent claims 10 and 24 are patentably distinct from the Kofstad patent. As dependent claim 22 further defines patentably distinct claim 10, and dependent claim 36 further defines patentably distinct claim 24, Applicant submits that dependent claims 22 and 36 are also in condition for allowance. Applicant, therefore, respectfully requests that the rejection of claims 22 and 36 under 35 U.S.C. 103(a) be reconsidered and withdrawn and that claim 22 and 36 be allowed.

Double Patenting

Claims 10, 16, 11-15, and 18-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11, respectively, of U.S. Patent No. 6,681,942. Claims 24, 30, 25-29, and 32-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-22, respectively, of U.S. Patent No. 6,681,942.

Concurrently with this Amendment, a terminal disclaimer in compliance with 37 CFR 1.321(c) has been filed to overcome the double patenting rejection. Applicant, therefore, respectfully requests that the rejection of claims 10, 16, 11-15, 18-22, 24, 30, 25-29, and 32-26 under the judicially created doctrine of obviousness-type double patenting be reconsidered and withdrawn and that claims 10, 16, 11-15, 18-22, 24, 30, 25-29, and 32-26 be allowed. Applicant submits that the filing of this terminal disclaimer is to obviate the rejection based on non-statutory double patenting and is not an admission of the propriety of the rejection.

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CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 10-22, 24-36, 38, and 41 are all in a condition for allowance and requests reconsideration of the application and allowance of all pending claims.

Any inquiry regarding this Amendment and Response should be directed to either Robert D. Wasson at Telephone No. (360) 212-2338, Facsimile No. (858) 655-5859 or Scott A. Lund at Telephone No. (612) 573-2006, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

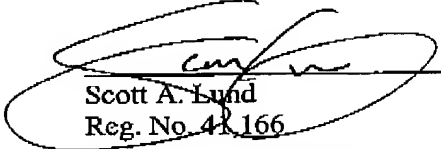
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CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this paper or papers, as described herein, are being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306 on this 10th day of September, 2004.


By: _____
Name: Scott A. Lund